

**FILED**

**MAY 16 2013**

UNITED STATES DISTRICT COURT  
DISTRICT OF MONTANA  
GREAT FALLS DIVISION

Clerk, U.S. District Court  
District Of Montana  
Great Falls

UNITED STATES OF AMERICA,

Case No. CR 13-32-GF-DLC-RKS

Plaintiff,

FINDINGS AND  
RECOMMENDATION  
CONCERNING PLEA

vs.

JOSEPH CHRISTOPHER  
BIRDTAIL,

Defendant.

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered a plea of guilty to one count of Abusive Sexual Contact (Count II), as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss count I of the Indictment.

After examining the Defendant under oath, I have made the following determinations:

1. That the Defendant is fully competent and capable of entering an informed and voluntary plea,
2. That the Defendant is aware of the nature of the charge against him and consequences of pleading guilty to the charge,
3. That the Defendant fully understands his constitutional rights, and the

extent to which he is waiving those rights by pleading guilty, and

4. That the plea of guilty is a knowing and voluntary plea, supported by an independent basis in fact sufficient to prove each of the essential elements of the offense charged.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that he fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty of Count II of the Indictment, and that sentence be imposed. I further recommend that Count I of the Indictment be dismissed.

**This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.**

DATED this 16th day of May, 2013.

  
Keith Strong  
United States Magistrate Judge